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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,110	11/19/2003	Richard L. Bontrager	RSVP-03008US0	7308
7590	08/10/2004		EXAMINER	
Martin C. Fliesler FLIESLER DUBB MEYER & LOVEJOY LLP Fourth Floor Four Embarcadero Center San Francisco, CA 94111-4156			SZUMNY, JONATHON A	
			ART UNIT	PAPER NUMBER
			3632	
			DATE MAILED: 08/10/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/717,110	BONTRAGER ET AL.	
	Examiner	Art Unit	MW
	Jon A Szumny	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 July 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 15-19, 22 and 25-28 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,5,6,8,9,12,13,20 and 23 is/are rejected.
- 7) Claim(s) 3,4,7,10,11,14,21 and 24 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 November 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

This is the second office action for application number 10/717,100, Modified Spring System End Cap for Packaging Fragile Articles Within Shipping Cartons, filed on November 19, 2003.

Election/Restrictions

Applicant's election of Species 22 (the end cap of figures 11A,11B) corresponding to claims 1-14, 20, 21, 23 and 24 in the reply filed on July 2, 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Consequently, claims 15-19, 22 and 25-28 are withdrawn from further consideration.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

The disclosure is objected to because of the following informalities:

In the abstract, line 1, "Structures are provided" should be --Structures--.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

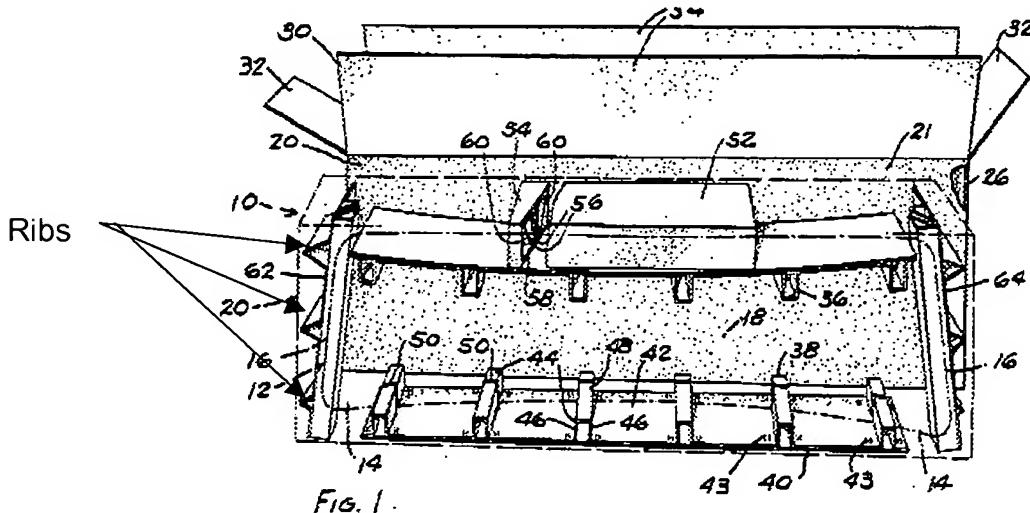
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 5, 6, 8, 9, 12, 13, 20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent number 5,799,796 to Azelton et al. in view of U.S. Patent number 2,769,534 to Lidgard.

Azelton et al. '796 discloses a spring system end cap (figures 1A,1B) comprising a platform portion (4), a sidewall structure (6,8) having a length and including an inner wall (10) connected with the platform portion and surrounding the periphery of the platform portion, and an outer wall (12) forming an acute angle relative to the platform portion and surrounding the periphery of the inner wall, at least one spring system (14) connected between the inner wall and the outer wall wherein the spring system includes at least one bellows (20), wherein the sidewall structure includes a plurality of the spring systems formed end to end, wherein each spring system is connected with the outer wall along a ridge forming a plurality of arcs (see figure 1B) connected end to end along

the length of the sidewall structure, wherein Azelton et al. '796 additionally teaches a system for supporting an article including first and second end caps as previously described (see figure 2).



However, Azelton et al. '796 fails to specifically teach at least one rib protruding from the outer wall. Nevertheless, Lidgard '534 divulges an end cap for supporting an article (figures 1,2, see above), wherein the end cap includes ribs (above) protruding from an outer wall. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included ribs on the outer wall of Azelton et al. '796 as in Lidgard '534 so as to allow the end caps along with an object being held by the end caps to more closely conform to the inside of a carton or box which would provide for a more stable assembly. Further, it would have been obvious to have provided ribs on each of the spring systems so as to provide for an even more stable assembly, in addition to the fact that doing so is simply seen as a duplication of parts.

Allowable Subject Matter

Claims 3, 4, 7, 10, 11, 14, 21 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Regarding claims 3, 7, 10, 14, 21 and 24, the prior art in this office action failed to further specifically teach an outer face of each of the at least one ribs to be formed along a plane perpendicular to a plane formed by the platform portion.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Creaden '170, Wiegand et al. '115, Doria '159, Watson '331, Oinuma et al. '286, Liao et al. '546, Chu '765, Madsen '199, Moncrief et al. '122, Moren et al. '253, Koike '873, Smith '337 and Horbal '860 teach various end cap structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Art Unit: 3632

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Jon Szumny
Patent Examiner
Technology Center 3600
Art Unit 3632
August 5, 2004